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Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JASON EDWARD THOMAS CARDIFF,

Defendant.

No. 5:23-CR-00021-JGB

EX PARTE APPLICATION FOR (1)
DECLARATION OF FUGITIVE STATUS, (2)
ORDER VACATING TRIAL DATE AND
TOLLING OF SPEEDY TRIAL ACT, AND
(3) ISSUANCE OF ARREST WARRANT;
[PROPOSED] ORDER

Plaintiff United States of America, by and through its counsel of record, the Consumer Protection Branch of the United States Department of Justice and Trial Attorney Manu J. Sebastian, and the Acting United States Attorney for the Central District of California

1 and Assistant United States Attorney Valerie L. Makarewicz, hereby
2 applies to the Court ex parte to find defendant JASON EDWARD THOMAS
3 CARDIFF a fugitive from this prosecution, for an order vacating the
4 trial date in this matter and for findings of excludable time periods
5 pursuant to the Speedy Trial Act, and for the Court to issue an
6 arrest warrant for defendant.

7 The application is based upon this notice, the accompanying
8 memorandum of points and authorities, the records of this case, and
9 on such further evidence and argument as may be presented at any
10 hearing of this motion.

11 In compliance with Local Rule 7-19, defendant's attorneys are
12 Stephen Cochell, 5850 San Felipe, Ste. 500, Houston Texas 77057,
13 Telephone: (713) 436-8000, Facsimile: (213) 623-2000, email:
14 srcochell@gmail.com, and Allan Grant, 17351 Greentree Drive,
15 Riverside, California 92503-6762, Telephone (888) 937-7555, Facsimile
16 (866) 858-6637, allan@grants-law.com.

17 The government informed defense counsel of its intent to file
18 the instant pleading at the hearing on January 30, 2025 and by email
19 on January 31, 2025. Defense opposes.

20 The reasons for seeking an ex parte order for the relief sought
21 herein is several-fold.

22 Beginning in July 2024, the Court permitted defendant to travel
23 to Ireland. In January 2025, the Court ordered defendant to return to
24 the United States on or before January 19, 2025. To date, defendant
25 has not returned. By not complying with the bond conditions ordered,
26 Defendant violated his pretrial release. Defendant failed to attend a
27 court hearing as ordered, absconded from Pretrial Services
28 supervision, now resides at a location that Pretrial Services has not

1 approved.

2 Defendant is a dual citizen of the United States and Ireland.
3 As stated by defense counsel at the hearing on January 30, 2025,
4 defendant is in possession of a valid Irish passport, but an expired
5 United States passport. Defendant's risk of flight from Ireland is
6 high--defendant is in contempt of a court order to return. The
7 issuance of an arrest warrant is needed so that extradition of the
8 defendant can commence.

9 Dated: February 4, 2025

Respectfully submitted,

10 AMANDA N. LISKAMM
11 Director
12 Consumer Protection Branch

13 JOSEPH T. MCNALLY
14 Acting United States Attorney

15 /s/
16 MANU J. SEBASTIAN
17 Trial Attorney
18 VALERIE L. MAKAREWICZ
19 Assistant United States Attorney

20 Attorneys for Plaintiff
21 United States of America
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MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

On January 31, 2023, a grand jury returned an indictment that charged the defendant with access device fraud, aggravated identity theft, and witness tampering, violations of 18 U.S.C. §§ 1029(a)(5), 1028(a)(1), and 1512(b)(2)(B). Dkt. 1. Defendant was arrested on November 26, 2023, in the Central District of California and made his initial appearance on November 27, 2023. Dkt. 7. On December 6, 2023, defendant was released on a \$530,000 bond. Dkt. 21.

After several continuances, trial for this case is currently set for July 15, 2025. Dkt. 146.

On October 29, 2024, the Court permitted Defendant to travel to Ireland for fourteen nights. Dkt. 124. On November 20, 2021, the Court permitted Defendant to extend his travel to Ireland for thirty days and ordered him to return on December 20, 2024. Dkt. 133. On December 20, 2024, the Court permitted Defendant to extend his stay in Ireland for another thirty days and ordered he return to the United States by January 19, 2025. Dkt. 151.

On January 14, 2025, Defendant filed an ex parte application to allow defendant to remain in Ireland for an additional 120 days, which the Court denied. Dkts. 162, 165. The Court again ordered that Defendant to return to Texas no later than January 19, 2025. Dkt. 165. On January 16, 2025, Defendant filed a motion for reconsideration, which the Court denied. Dkts. 166, 171. The Court again ordered Defendant to return to Texas no later than January 19, 2025. Dkt. 171. On January 18, 2025, Defendant filed an ex parte application for a modification of his reporting date, which the Court denied. Dkts. 172, 176. Defendant failed to return to the United

1 States by January 19, 2025, as repeatedly directed by the Court. Dkt.
2 188. Defendant filed a "Status Report" informing that Court that he
3 intends to remain in Ireland for at least "three to four month[s]."
4 Dkt. 178.

5 **II. ARGUMENT**

6 Section 3161(c)(1) states, in part, "the trial of defendant
7 charged in an information or indictment with the commission of an
8 offense shall commence within seventy days from the filing date (and
9 making public) of the indictment or information, or from the date the
10 defendant has appeared before a judicial officer of the court in
11 which such charge is pending, whichever date last occurs." The
12 consequence of failure to commence trial within the 70-day period is
13 dismissal. 18 U.S.C. § 3162(a)(2) ("If a defendant is not brought to
14 trial within the time period required by section 3161(c) as extended
15 by section 3161(h), the information or indictment shall be dismissed
16 on motion of the defendant.") In light of the consequence of a Speedy
17 Trial Act violation, it is the United States' obligation to ensure
18 compliance with the Act. United States v. Perez-Reveles, 715 F.2d
19 1348, 1353 (9th Cir. 1983) ("We emphasize that the monitoring of the
20 limitation period is not the exclusive burden of the district judge.
21 The Government shares the responsibility for speedy trial
22 enforcement.").

23 Therefore, consistent with its obligation to ensure compliance
24 with the Speedy Trial Act, the United States moves this Court to make
25 a finding that defendant has been a fugitive from prosecution since
26 January 19, 2025, and therefore, "[a]ny period of delay resulting
27 from the absence or unavailability of the defendant" is excluded from
28 the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(3)(A), as of

1 January 19, 2025. United States v. Carrillo, 2020 WL 2556940 (E.D.
2 Cal. 2020), citing, United States v. Love, 859 F. Supp. 725, 736
3 (S.D.N.Y. 1994) (excluding 27 months of time where defendant was a
4 fugitive from the Speedy Trial Act pursuant to 18 U.S.C.
5 § 3161(h) (3) (A)); United States v. Pena, 793 F.2d 486, 490 (2nd Cir.
6 1986) (finding exclusion of time appropriate where unsevered co-
7 defendant was fugitive); United States v. Sandoval, 990 F.2d 481, 483
8 (9th Cir. 1993) (holding that "when the defendant seeks to avoid
9 detection by American authorities and any post indictment delay can
10 be attributed to him, he waives the right to a speedy trial" for
11 Sixth Amendment speedy trial purposes).

12 Under Federal Rule of Criminal Procedure 43, a defendant who
13 absconds before trial and is absent at its commencement may not be
14 tried in absentia. Fed. R. Crim. P. 43(c) (1); Crosby v. United
15 States, 506 U.S. 255, 256, 262 (1993).

16 Defendant's attorney confirmed at the motion hearing on January
17 30, 2025, that defendant failed to return to the United States on
18 January 19, 2025, as ordered by this Court. When defendant failed to
19 return to the United States on January 19, 2025, as the Court
20 previously ordered, he was "absent and unavailable" within the
21 meaning of the Speedy Trial Act.

22 The requested order vacating the trial date is not based on
23 congestion of the Court's calendar, lack of diligent preparation on
24 the part of the attorney for the government or the defense, or
25 failure on the part of the attorney for the government to obtain
26 available witnesses.

27 For purposes of the Speedy Trial Act, the time period of January
28 19, 2025, to the date defendant appears before a judicial officer in

1 this district upon his arrest or surrender, inclusive, should be
2 excluded pursuant to 18 U.S.C. §§ 3161(h)(3)(A)-(B) because defendant
3 is "absent."

4 If defendant is located or apprehended at some future date, the
5 government will inform the Court and will request a status conference
6 where a new trial date can be set.

7 **III. CONCLUSION**

8 The United States respectfully requests a finding that defendant
9 is a fugitive and therefore time should be excluded from the Speedy
10 Trial Act, 18 U.S.C. § 3161(h)(3)(A) since he became a fugitive on
11 January 19, 2025. The government also requests that the trial date
12 set for trial in this case, July 15, 2025, and all other deadlines be
13 vacated. The United States also requests that the Court issue a
14 warrant for defendant's arrest.

15 Dated: February 4, 2025

Respectfully submitted,

17 AMANDA N. LISKAMM
18 Director
Consumer Protection Branch

19 JOSEPH T. MCNALLY
20 Acting United States Attorney

21 /s/
22 MANU J. SEBASTIAN
Trial Attorney
23 VALERIE L. MAKAREWICZ
Assistant United States Attorney

24 Attorneys for the Plaintiff
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